

## Environmental Protection Agency

## § 125.86

any fishery management agency(ies) along with data and information from other sources.

(2) You must design and construct your cooling water intake structure such that the total design intake flow from all cooling water intake structures at your facility meet the following requirements:

(i) For cooling water intake structures located in a freshwater river or stream, the total design intake flow must be no greater than five (5) percent of the source water annual mean flow;

(ii) For cooling water intake structures located in a lake or reservoir, the total design intake flow must not disrupt the natural thermal stratification or turnover pattern (where present) of the source water except in cases where the disruption is determined to be beneficial to the management of fisheries for fish and shellfish by any fishery management agency(ies);

(iii) For cooling water intake structures located in an estuary or tidal river, the total design intake flow over one tidal cycle of ebb and flow must be no greater than one (1) percent of the volume of the water column within the area centered about the opening of the intake with a diameter defined by the distance of one tidal excursion at the mean low water level.

(3) You must submit the application information required in 40 CFR 122.21(r) and § 125.86(c).

(4) You must implement the monitoring requirements specified in § 125.87.

(5) You must implement the record-keeping requirements specified in § 125.88.

(e) You must comply with any more stringent requirements relating to the location, design, construction, and capacity of a cooling water intake structure or monitoring requirements at a new facility that the Director deems are reasonably necessary to comply with any provision of state law, including compliance with applicable state water quality standards (including designated uses, criteria, and antidegradation requirements).

[66 FR 65338, Dec. 18, 2001, as amended at 68 FR 36754, June 19, 2003]

### § 125.85 May alternative requirements be authorized?

(a) Any interested person may request that alternative requirements less stringent than those specified in § 125.84(a) through (e) be imposed in the permit. The Director may establish alternative requirements less stringent than the requirements of § 125.84(a) through (e) only if:

(1) There is an applicable requirement under § 125.84(a) through (e);

(2) The Director determines that data specific to the facility indicate that compliance with the requirement at issue would result in compliance costs wholly out of proportion to the costs EPA considered in establishing the requirement at issue or would result in significant adverse impacts on local air quality, significant adverse impacts on local water resources other than impingement or entrainment, or significant adverse impacts on local energy markets;

(3) The alternative requirement requested is no less stringent than justified by the wholly out of proportion cost or the significant adverse impacts on local air quality, significant adverse impacts on local water resources other than impingement or entrainment, or significant adverse impacts on local energy markets; and

(4) The alternative requirement will ensure compliance with other applicable provisions of the Clean Water Act and any applicable requirement of state law.

(b) The burden is on the person requesting the alternative requirement to demonstrate that alternative requirements should be authorized.

[66 FR 65338, Dec. 18, 2001, as amended at 68 FR 36755, June 19, 2003]

### § 125.86 As an owner or operator of a new facility, what must I collect and submit when I apply for my new or reissued NPDES permit?

(a)(1) As an owner or operator of a new facility, you must submit to the Director a statement that you intend to comply with either:

(i) The Track I requirements for new facilities that withdraw equal to or greater than 10 MGD in § 125.84(b);

(ii) The Track I requirements for new facilities that withdraw equal to or